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MAILED

OCT 15 2010

In re Application of  
HERRMANN  
Application No. 09/730,691  
Filed: 12/06/2000  
Attorney Docket No. EN11021

: OFFICE OF PETITIONS  
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: DECISION ON PETITION  
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This is a decision on the petition under 37 CFR 1.181, filed July 8, 2005, to withdraw the holding of abandonment for the above-identified application.

On October 5, 2004, the Office mailed a non-final Office action, which set three-month shortened statutory period for reply. The application was held abandoned and a Notice of Abandonment was mailed on June 23, 2005.

In the present petition, applicants asserted that they filed a timely reply to the non-final Office action of October 5, 2004. In support of the assertion, applicants supplied a copy of the reply in the form of an amendment with a certificate of facsimile transmission under 37 CFR 1.8 dated December 10, 2004. Additionally, applicants provided a copy of the sending unit's transmission report and the USPTO's Auto-Reply Facsimile Transmission, acknowledging receipt of 5 pages (including the cover sheet) in USPTO on December 10, 2004.

Upon reviewing the record, the Office has located the reply, filed December 10, 2004, in the Image File Wrapper for the present application. Accordingly, the reply is considered timely filed on December 10, 2004. The petition under 37 CFR 1.181 is **granted**. The holding of abandonment is hereby withdrawn. The application is restored to pending status, as the reply was timely filed.

The matter is being referred to Technology Center Art Unit 2836 for a review of the reply filed on December 10, 2004.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

*C. T. Donnell*

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